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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY	DOCKET NO.
09/248-788	02/12/99	BABIKIAN	D	3743

ROBERT MOLL  
1173 ST CHARLES COURT  
LOS ALTOS CA 94024

QM61/0814

FORD, J. EXAMINER

3743 UNIT

PAPER NUMBER

08/14/00

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



UNITED STATES DEPARTMENT OF COMMERCE  
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SW

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/248,768	02/12/99	BABIKIAN	D SVG-771

QM02/0802

ROBERT MOLL  
1173 ST CHARLES COURT  
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EXAMINER	
FORWARD	PAPER NUMBER
ART UNIT	8

DATE MAILED:

08/02/00

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

*Extensions of time are available under 37 CFR 1.136(a).*

1. ☒ The communication filed 5-15-2000 is informal/non-responsive for the reason(s) checked below and should be corrected. APPLICANT IS GIVEN ONE MONTH FROM THE DATE OF THIS LETTER OR UNTIL THE EXPIRATION OF THE PERIOD FOR RESPONSE SET IN THE LAST OFFICE ACTION (WHICHEVER IS LONGER) WITHIN WHICH TO CORRECT THE INFORMALITY.

- a. ☐ The amendment to claim(s) \_\_\_\_\_, filed \_\_\_\_\_, fails to comply with the provisions of 37 C.F.R. 1.121 and is accordingly held to be non-responsive. A supplemental paper correcting the informal portions and complying with the rule is required.
- b. ☐ The paper is unsigned. A duplicate paper or ratification, properly signed, is required.
- c. ☐ The paper is signed by \_\_\_\_\_, who is not of record. A ratification or a new power of attorney with a ratification, or a duplicate paper signed by a person of record, is required.
- d. ☐ The communication is presented on paper which will not provide a permanent copy. A permanent copy, or a request that a permanent copy be made by the Office at applicant's expense, is required, see M.P.E.P. 714.07.

- e. ☒ Other *Applicant's election of Group I, claims 1-12 without traverse is acknowledged. With respect to the objections raised regarding the*

2. ☐ In accordance with applicant's request, THE PERIOD FOR RESPONSE FROM THE OFFICE ACTION DATED \_\_\_\_\_ IS EXTENDED TO RUN \_\_\_\_\_ MONTH(S).

No further extension will be granted unless approved by the Commissioner. 37 C.F.R. 1.136 (b)

3. ☐ Receipt is acknowledged of papers submitted under 35 U.S.C. 119 which papers have been made of record in the file.

4. ☐ Other

*incorporation by reference the Examiner is willing to hold these in abeyance. Nevertheless, the examination cannot proceed properly without the references which are incorporated by reference at least being of record. While the Examiner will defer any re-writing of the specification, the examiner still needs the references to properly understand and read the specification. Accordingly the materials incorporated by reference should be submitted at this time so that orderly and proper examination can take place. These incorporated materials are mentioned throughout the specification.*

*[Signature]*

John K. Ford  
Primary Examiner

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The incorporation of essential material by reference to a foreign application or foreign patent or to a publication inserted in the specification is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

Applicants incorporate by reference a publication on page 1 of the specification (a ULSI Technology Publication). To the extent that it may contain essential subject matter, it is improperly incorporated. Applicants have not provided a complete copy <sup>and</sup> of the Examiner is consequently left without a means to assess its relevance or "essentialness". The same problem occurs on page 5 with respect to <sup>the</sup> ~~an~~ Mill and Irwin publication (not provided by applicants), the McCabe and Smith publication (not provided) and Perry's Handbook (not provided). The same problem occurs on page 12 of the specification (Weber publication) and also ~~on~~ page 12 (Irvine and Liley publication) and also ~~on~~ page 14 (Horowitz and Hill publication). To the extent that any of these publications contain essential subject matter to satisfy the description, enablement and best-mode requirements of 35 U.S.C. 112, first paragraph, that material must be added to the specification at this time subject to the requirements set forth above.

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This application contains claims directed to the following patentably distinct species of the claimed invention: first species of Fig. 1,

second species of Figs 2 and 3(A)-3(E).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least claim 1 appears to be generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

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- I. Claims 1-12, drawn to a gas-liquid contact system having a heater, chiller and contractor controlled by two temperature sensors, classified in class 165, subclass 228.
- II. Claims 13-18, drawn to a computer using multitasking to set temperature and RH, classified in class 364, subclass --.
- III. Claims 19-23, drawn to a method of controlling air quality, classified in class 261, subclass --.

The inventions are distinct, each from the other because:

Inventions I and III are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method as claimed can be practiced by materially different apparatus such as any number of different types of saturators including packed columns, sprays, ultrasonic humidifiers etc.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination as claimed in claim 1 does not require any of the particulars of the computing system

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of claim 13 including but not limited the various compensators etc. It is also unclear whether a heater or chiller or contractor are even part of claim 13. The subcombination has separate utility such as by itself or in combination with other types of heating, cooling and <sup>contractor</sup>~~contractor~~ equipment.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II or III, restriction for examination purposes as indicated is proper.


Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication should be directed to John Ford at telephone number (703) 308-2636.



**John K. Ford**  
**Primary Examiner**

J. FORD:LM  
MARCH 27, 2000